

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION**

GREGORY WARD,

Plaintiff,

v.

OFFICER OLANDO WALKER,

Defendant.

CV 04-P-494-W

ENTERED

AUG 26 2004

MEMORANDUM OF OPINION

This is a civil action pursuant to 42 U.S.C. § 1983 filed by plaintiff, Gregory Ward. In his *pro se* complaint, plaintiff names Officer Orlando Walker as defendant. Plaintiff contends defendant Walker violated his constitutional right to be free from cruel and unusual punishment by subjecting him to excessive force. As compensation for the alleged constitutional violation, plaintiff seeks monetary relief. On July 16, 2004, the magistrate judge entered a report and recommendation, recommending that summary judgment be denied as to defendant Walker. No objections have been filed.

Having carefully reviewed and considered *de novo* all the materials in the file, including the report and recommendation, the Court is of the opinion that the magistrate judge's findings of fact and conclusions of law are due to be and are hereby ADOPTED and his recommendation is ACCEPTED. Therefore, defendant Walker's motion for summary judgment is due to be DENIED.

Accordingly, the excessive force claim against defendant Walker is due to be REFERRED to United States Magistrate Judge John E. Ott for further proceedings.

An appropriate order will be entered.

DATED this 25th day of August, 2004.



R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE

12